IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Nawal Kishore & Anr. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1507/2006
against the order dated 17-10-2006 passed
by the Addl. Sessions Judge (Fast Track) No.1,
Bhilwara, in Criminal Revision No. 109/2006.

...

Date of Order: November 23, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. R.K. Charan, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 17-10-2006 passed by the Additional Sessions Judge (Fast Track) No.1, Bhilwara (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 109/2006, whereby the revision petition filed by the petitioners against the order dated 31-5-2006 passed by the Additional Chief Judicial Magistrate, Bhilwara (for short, "the trial Court" hereinafter) was dismissed.

I have heard learned counsel for the petitioners and the Public Prosecutor for the State.

It is contended by the learned counsel for the

petitioners that the impugned order of the Revisional Court is non-application of mind to the extent that the Revisional Court proceeded as if the order of the trial Court was the order taking cognizance.

From para No.1 and 2 of the order of the Revisional Court, it appears that the Revisional Court was examining an order of taking cognizance whereas the matter before the Revisional Court was against the order of the trial Court framing the charge. It shows that the Revsional Court has not applied the mind and dismissed the revision petition summarily without considering the material placed before the trial Court, therefore, the order impugned cannot be sustained and liable to be set aside.

The criminal miscellaneous petition is allowed. The order impugned dated 17-10-2006 passed by the Revisional Court in Criminal Revision No.109/2006 is set aside and the matter is remanded to the Revisional Court to decide the revision petition afresh, keeping in view the fact that the revision petition filed by the petitioners is against the order framing the charge and not against the order taking the cognizance.

(H.R. PANWAR), J.

mcs